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**IN THE UNITED STATES COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL J. PLAKE, d/b/a/ Plake)	
and Associates,)	Criminal No. 12-CR-81-1F
)	
and)	
)	
PAUL D. CARDWELL,)	
)	
Defendants.)	

**DEFENDANT PLAKE'S UNOPPOSED MOTION TO VACATE
AND CONTINUE SENTENCING DATE**

COMES NOW Defendant Michael J. Plake, by and through his retained counsel Sean H. Barrett, and moves the Court for an Order VACATING Defendant's Sentencing Hearing date, currently set for November 26, 2012, and CONTINUING the same to a later date and time convenient to the Court and respective parties to this matter and as GROUNDS THEREFORE advises as follows:

1. As has been brought to the Court's attention in a previously filed Joint Motion to Declare Case Complex And For Excludable Delay, file date May 15, 2012, and now repeated here, the United States Attorney's Office for the Northern District of Indiana has undertaken an investigation in that district targeting Defendant's Plake and Cardwell pertaining to conduct similar, if not identical, to the conduct underlying the charges against both Defendant's in the above-captioned matter and potentially attributable to Defendant Plake as relevant conduct in the above-captioned matter; the results of the Northern District of Indiana investigation are anticipated to be provided to the United States Attorney's Office for the District of Wyoming upon completion.
2. Defendant Plake has retained Sean H. Barrett, who is admitted to practice before the United States District Court for the Northern District of Indiana, to represent him in anticipation of an indictment against him in the Northern District of Indiana.
3. On October 17, 2012 counsel for Defendant Plake was contacted by Assistant United States Attorney ("AUSA" hereafter) Diane Berkowitz, U.S. District Court, Northern District of Indiana, and was advised it is anticipated that Defendant Plake will be indicted in the Northern District of Indiana sometime in mid-November, 2012, no more specific date was provided at that time however.
4. AUSA Berkowitz further advised and confirmed with counsel for Defendant Plake that she is receptive to a Rule 20, Federal Rules of Criminal Procedure, transfer of proceedings from the Northern District of Indiana to the District of Wyoming for Change of Plea and Sentencing following indictment of Defendant Plake in the

Northern District of Indiana, as has been previously been discussed between the parties.

5. Following discussion with AUSA Berkowitz counsel for Defendant Plake again confirmed with Assistant United States Attorney Lisa Leschuck, counsel for the United States in the above-captioned matter, that she is agreeable to a Rule 20 transfer of proceedings from the Northern District of Indiana to the District of Wyoming for purposes of Change of Plea and Sentencing following indictment of Defendant Plake in the Northern District of Indiana, as has been previously been discussed between the parties.
6. Defendant Plake has advised counsel that he wishes to pursue a Rule 20 transfer of proceedings from the Northern District of Indiana to the District of Wyoming for Change of Plea and Sentencing following indictment in the Northern District of Indiana and desires the continuance requested herein.
7. Defendant Plake will immediately file a request for transfer of the prosecution pursuant to Rule 20 from the Northern District of Indiana to the District of Wyoming following Defendant Plake's indictment in the Northern District of Indiana.
8. Counsel for Defendant Plake has advised the United States Probation Officer preparing Defendant Plake's Presentence Report in the above-captioned matter, Mr. Tom Fitzgerald, of the anticipated request for transfer of proceedings from the Northern District of Indiana to the District of Wyoming for the purpose of change of plea and sentencing and the likely impact of such a transfer of proceedings on the

defendant's relevant conduct calculations and sentencing recommendations before this Court at the time of sentencing in the above-captioned matter.

9. Counsel for the United States, AUSA Lisa Leschuck, has been advised of this request for a continuance of Defendant's sentencing date, including the reasons therefore, and does not object.

10. Defendant Plake has further advised counsel that his wife, Kimberly Plake, a pharmacy professor at the Purdue University, West Lafayette, Indiana, wishes to appear and address the Court in person at the time of Defendant's sentencing however the current sentencing date of November 26, 2012 results in a conflict with her teaching schedule and would request a continuance for that additional reason as well.

11. Defendant Plake appears to have no prior criminal convictions aside from the counts to which he has pled guilty in the above-captioned matter, is on pretrial release and has been compliant with all the terms and conditions thereof.

WHEREFORE, it is respectfully requested that Defendant Plake's Sentencing date of November 26, 2012 be VACATED and CONTINUED to a later date and time mutually convenient to the Court and counsel of the respective parties in this matter so as to allow Kimberly Plake, wife of Defendant, to appear in person at sentencing and further to allow sufficient time for Defendant Plake to be indicted in the Northern District of Indiana, to seek a transfer of that matter to the District of Wyoming for purposes of change of plea and sentencing, and to appear before this Court for those purposes.

DATED this 28th day of October, 2012.

By: /s/ Sean H. Barrett
Attorney for Defendant Plake

CERTIFICATE OF SERVICE

The undersigned certifies that on the October 28, 2012 a true and correct copy of the foregoing document was electronically filed and consequently served upon Counsel of Record via CM/ECF or Court's Electronic Filing System.

/s/ Sean H. Barrett
Attorney for Defendant Plake